

**REMARKS**

Claims 18-43 are pending in the application. With entry of the amendment, claims 19, 23, 25, 26, 30, 31, 36, 37, 39, 40 and 43 are amended.

**1. Claim objections**

The objections to claims 19, 23, 30, 31, 36 and 37 have been addressed by amending the claims as suggested by the Examiner. Reconsideration of the objections is respectfully requested.

**2. Claim rejections under 35 USC 112**

The rejections of claims 25, 26, 39, 40 and 43 under 35 USC 112, second paragraph, have been addressed by amending the claims to provide proper antecedent basis. Reconsideration of the rejection is respectfully requested.

**3. Claim rejections under 35 USC 101**

Claims 18-28 were rejected under 35 USC 101 as being directed to non-statutory subject matter. In particular, the Examiner indicated the view that the claims are neither positively tied to a particular machine nor transform underlying subject matter (so-called “machine-or-transformation test”), citing In re Bilski 88 USPQ2d 1385. Applicants disagree.

Base claim 18 recites:

A method of using a wireless Local Area Network (LAN) for providing access to a fixed broadband network to roaming mobile terminals via the wireless LAN, said wireless LAN being connected to a broadband access line of the fixed broadband network, the broadband access line having a first capacity subscribed for by a fixed subscriber, the broadband access line further having a second capacity not subscribed for, the method comprising allocating at least a portion of the second capacity to the roaming mobile terminals.

Contrary to the rejection, Applicants believe that the “machine-or-transformation test” is met by claim 18 for the following reasons.

- The claimed method is tied to a particular machine, namely, a broadband access line of a fixed broadband network, which is connected to a wireless local area network. The broadband access line has a first capacity subscribed for by a fixed subscriber and a second capacity not subscribed for, and the method comprises allocating at least a portion of the second capacity of the broadband access line to roaming mobile terminals.
- The claimed method is tied to a particular machine, namely, a fixed broadband network, to which roaming mobile terminals are provided access via a wireless local area network. The wireless local area network is connected to a broadband access line of the fixed broadband network.
- The claimed method is tied to a particular machine, namely, a wireless local area network, which is used for providing access to a fixed broadband network to roaming mobile terminals.
- The claimed method is tied to a particular machine, namely, roaming mobile terminals, which get access to a fixed broadband network via a wireless area network.

Therefore, claim 18 is directed to statutory subject matter. Claims 19-28, which depend from base claim 18, are also directed to statutory subject matter for at least the same reasons as claim 18. Reconsideration of the rejection under 35 USC 101 is respectfully requested.

#### **4. Claim rejections under 35 USC 103**

##### **4.1**

Claims 18-22, 27-30, 35, 36 and 41-43 were rejected under 35 USC 103(a) as being unpatentable over Chow et al. (US7010002) (hereinafter Chow) in view of Peleg et al. (US20040042398) (hereinafter Peleg). The rejection is respectfully traversed.

Chow discloses a network-centric architecture for broadband networking for home, Small Office Home Office (SOHO) and business, including service and equipment elements. The

architecture integrates a wireless access system/service in the residence, SOHO, business or public environment through the use of a local broadband network to the service provider's broadband transport network and to a service provider's broadband packet network that facilitates end-to-end packet telecommunication services.

The Examiner acknowledges that Chow does not disclose at least the broadband access line further has a second capacity not subscribed for, the method comprising allocating at least a portion of the second capacity to the roaming mobile terminals.

The Examiner then looks to Peleg to supply the features not found in Chow. Applicants disagree for the following reasons.

(a)(i) Peleg fails to teach or suggest “a capacity not subscribed for”

The Examiner refers to the Abstract and paragraphs [0051] and [0066] in order to substantiate that Peleg allegedly discloses “the broadband access line further has a second capacity not subscribed for” as required by base claims 18, 29 and 35. However, the referenced paragraphs of Peleg do not mention anything about a *capacity* (of the broadband access line) *not subscribed for*.

The Examiner interprets “a complementary unoccupied portion of the link capacity” in Peleg as “a capacity not subscribed for.” The terms “occupied” and “unoccupied” describe an attribute of a link capacity that is different and distinct from that of the terms “subscribed for” and “not subscribed for.” Occupied/unoccupied, as described in Peleg, relate to the estimated traffic for a link. In contrast, subscribed/unsubscribed in the claimed invention relates to (a) a capacity not subscribed for (claims 18, 29 and 35); (b) a capacity subscribed for, but momentarily not used by any subscriber (claims 23, 24, 31, 32, 37, 38); and (c) a bandwidth that may be released following priority network mechanisms (claims 25, 33 and 39).

Thus, *an unoccupied portion of a link capacity* and *a capacity not subscribed for* are different and distinct technical features. The mere disclosure of *an unoccupied portion of a link capacity* does not imply the disclosure of *a capacity not subscribed for*.

(a)(ii) Peleg fails to teach or suggest roaming mobile terminals

The Examiner refers to the Abstract and paragraphs [0051] and [0066] in order to substantiate that Peleg allegedly discloses “the method comprising allocating at least a portion of the second capacity to the roaming mobile terminals” as required by base claims 18, 29 and 35. However, the referenced paragraphs of Peleg do not mention anything about allocating a portion of capacity to *roaming mobile terminals*. Peleg merely refers to selectively preventing allocation of an occupied portion of a link capacity to at least one capacity requesting client. There is no indication that a capacity requesting client may be a *roaming mobile terminal*. In fact, there is no reference to *roaming mobile terminals*, or even simply *mobile terminals*, or wireless/mobile communication technology at all in Peleg’s entire disclosure.

Therefore, even if Chow and Peleg were combined, the combination would not result in the claimed invention.

(b) The cited references are in widely divergent fields of endeavor

Chow relates to the field of communications between users in diverse communication systems, and more particularly, to providing *wireless access* for users in wired environments.

Peleg discloses a traffic engineering method for reducing congestions over a link between communication network nodes.

Peleg does not relate to the field of wireless communication. In particular, it does not relate to providing roaming mobile/wireless terminals with access to a fixed broadband network. No disclosure is found in Peleg of mobile terminals or wireless local area networks, or components included in such networks. Indeed, there is not indication whatsoever in Peleg concerning mobile or wireless communication technology. Rather, the teachings of Peleg lie in the field of reducing congestion in communication networks in general.

Hence, Chow and Peleg are in widely divergent fields of endeavor and their combination would not be obvious to the person of ordinary skill in the art.

For at least the foregoing reasons, base claims 18, 29 and 35 are patentable over the combination of Chow and Peleg. Claims 19-22, 27, 28, 30, 36 and 41-43, which depend from respective base claims 18, 29 and 35, are also patentable for at least the same reasons.

Reconsideration of the rejection is respectfully requested.

**4.2**

Claims 23-26, 31-34 and 37-40 were rejected under 35 USC 103(a) as being unpatentable over Chow in view of Peleg and further in view of Hagen (US20020075844). The rejection is respectfully traversed.

Claims 23-26, 31-34 and 37-40 depend from respective base claims 18, 29 and 35, and are patentable for at least the same reasons noted above with respect to base claims 18, 29 and 35. Reconsideration of the rejection is respectfully requested.

**CONCLUSION**

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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